

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : R. G. Wilhelm
Application No. : 09/876,915
For : **SYSTEMS AND METHODS FOR ADAPTIVE
SAMPLING AND ESTIMATING A SYSTEMATIC
RELATIONSHIP BETWEEN A PLURALITY OF
POINTS**
Filed : 06/08/2001
Examiner : G. M. Desire
Art Unit : 2624

Mail Stop **Petitions**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR 1.137(b)
TO WITHDRAW HOLDING OF ABANDONMENT

Sir:

Pursuant to 37 CFR 1.137(b) and 37 CFR 1.181(a), the undersigned respectfully petitions the Commissioner for Patents to withdraw the holding of Abandonment.

As laid out in more detail below, on November 1, 2004 Applicants timely responded to a Non-Final Office Action, and on February 13, 2008 Applicants received a Notice of Abandonment. For the years between November 2004 and February 2008, Applicants received no update on the status of the application.

The Notice of Abandonment is based on a Non-Final Office Action Response which was incorrectly identified as an improper reply or not a bona fide attempt at a proper reply to a Non-Final Office Action. A Non-Final Office Action was mailed to

the Applicants on July 2, 2004. Applicants timely responded to the Non-Final Office Action on November 1, 2004, including with the response the required fee for a one-month extension.

In the Applicants' Response to the Non-Final Office Action, Applicants unintentionally erred in the claim amendments section on Page 6. Applicants labeled claim 2 as "currently amended" and placed a strikethrough over all text in claim 2. The Applicants unintentionally erred in not labeling claim 2 as "canceled." At page 14 of the Response, the "Remarks" section proves that Applicants unintentionally mislabeled claim 2 "currently amended," as this section clearly states that claim 2 is canceled. This error was minor, and the response as a whole was a bona fide attempt to advance the application because it substantially responds to all rejections and objections in the Non-Final Office Action.

A Notice of Abandonment was mailed to the Applicants on February 13, 2008. During the entire period between when Applicants filed the Response on November 1, 2004 and received the Notice of Abandonment on February 13, 2008, Applicants' representatives checked Private PAIR at least every six months and no update was posted on the application's status, and never received a notice of non-compliant amendment.

The error in the Response to the Non-Final Office Action was unintentional and minor. The response was a bona fide attempt to advance the application as it substantially responds to all rejections and objections in the Non-Final Office Action. Applicants' entire delay from the due date for the reply until the filing of this petition

was unintentional. Applicants therefore respectfully request that the Notice of Abandonment be withdrawn.

Applicants have included a copy of the Office Action Response as it was filed on November 1, 2004; and another Office Action Response with minor formatting changes and the above discussed error on Page 6 corrected.

Respectfully submitted,

Date: 1/14/2009



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